



January 9, 2002

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Austin, Texas 77342

OR2002-0159

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 157142.

The Texas Department of Criminal Justice ("TDCJ") received a request for copies of the Wynne Unit staffing plan for 1992, all subsequent changes or amendments to that plan, and the shift rosters for the Wynne Unit for first and third shift building and administrative segregation from August 16, 2001 to October 16, 2001. We note that in addition to requesting information relating to the staffing plan and unit roster, the requestor also asks several questions. The Act does not require the governmental body to prepare new information in response to a request. *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681 (Tex.App.—Eastland 2000, pet. denied); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975). Nor does the Act require a governmental body to prepare answers to questions or do legal research. See Open Records Decision Nos. 563 at 8 (1990) (considering request for federal and state laws and regulations), 555 at 1-2 (1990) (considering request for answers to fact questions). Although the Act does not require a governmental body to answer factual questions, a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 (1990). We note that you have not submitted information responsive to each item in the request. We therefore assume that you have released to the requestor all such responsive information. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from public disclosure an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere

with law enforcement or prosecution.” To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would unduly interfere with law enforcement; the determination of whether the release of particular records would unduly interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You explain that this request is for copies of the staffing plan and the unit shift rosters for the Wynne Unit for specified dates. You further explain that a “shift roster indicates the name and precise placement of each officer within the prison unit (or whether a particular post is manned) on that particular date.” You inform us that the Wynne Unit Staffing Plan “describes all the security positions allocated to a particular prison unit, the number of positions allocated to each shift, and where those positions are located within the prison facility.” In further support of the applicability of section 552.108(b)(1), you argue that “by having both documents, the requestor and any other member of the public would be able to discern which shifts are historically not fully staffed, which positions are left vacant, and thus be able to predict future weaknesses in prison security.” Having reviewed your arguments and the submitted information, we agree that the release of the information would interfere with law enforcement or crime prevention. Accordingly, the TDCJ may withhold the submitted information from disclosure under section 552.108(b)(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor

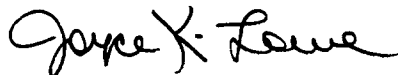
should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Joyce K. Lowe
Assistant Attorney General
Open Records Division

JKL/sdk

Ref: ID# 157142

Enc: Submitted documents

c: Mr. John W. Malone
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(w/o enclosures)